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PATENT DEPARTMENT
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CHICAGO, IL 60606-6473

In re Application of
STRANDBERG et al.
Application No.: 10/520,753
PCT No.: PCT/SE03/00403
Int. Filing: 11 March 2003
Priority Date: 10 July 2002
Attorney Docket No.: PO5,0014
For: MEDICAL SYSTEM WITH A MULTI-DOT
ELECTRODE, WHERE THE SUB-SIGNALS ARE
COMBINED INTO A SYNTHETIC REFERENCE

: DECISION ON PETITION

: UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Petition For Filing Under 37 CFR 1.47(a)", filed in the United States Patent and Trademark Office (USPTO) on 29 September 2005, to accept the application without the signature of joint inventor, Ulf Lindegren. Petitioner also requests a one month extension of time, which is granted.

BACKGROUND

On 10 January 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 27 June 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and in accord with 37 CFR 1.66 or 1.68 was required.

On 29 September 2005, applicant filed the instant petition under 37 CFR 1.47(a). The petition requested the acceptance of the application without the signature of inventor Ulf Lindegren, alleging that Mr. Lindegren refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included a check for \$130 for the petition fee. However the petition fee under 37 CFR 1.17(g) is \$200. The additional \$70 was charged to applicant's deposit account per his 10 January 2005 authorization. Thus Item (1) is satisfied.

Applicant attempted to satisfy Item (2) with the submission of declarations under 37 CFR 1.47(a) from Christina Barkstedt and Elisabeth Stark, patent administrators in the Patent Department of St. Jude Medical AB, regarding their attempts to obtain the signature of inventor Ulf Lindegren.

Ms. Barkstedt states that a complete copy of the application (specification, claims, drawings and declaration) was sent to Mr. Lindegren at his last known address on 18 July 2005. A copy of the letter sent to Mr. Lindegren (along with an English translation) was attached as Exhibit A. The letter's enclosure statement contradicts Ms. Barkstedt's statement as it notes: "Encl. Power-of-Attorney + self-addressed envelope." No where in her letter is there an indication that a complete copy of the application papers were sent to Lindegren.

Thereafter, on 16 August 2005 Ms. Stark sent a letter to Mr. Lindegren indicating that she resent "the application Declaration and a complete copy of the application (Specification, Claims, Drawings) to Mr. Lindegren requesting his signature on the declaration. A copy of this letter and an English language translation accompanied her statement as Exhibit B. The letter makes reference to "the originals (declaration and power-of-attorney)" sent earlier by Ms. Barkstedt. Ms. Stark indicates that she is "sending the originals again". This attempt is not sufficient evidence to show that a complete copy of the application papers (specification, claims, drawings and declaration) were sent to Mr. Lindegren.

A copy of the application papers (*specification, including claims, drawings, and oath or declaration*) should be sent to the last known address of the nonsigning inventor. It may be that Mr. Lindegren refuses to give a Power of Attorney but would not refuse to sign a declaration. Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition. Statements by a party not present when an oral refusal is made will not be accepted. See Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal.

As further evidence in support of the petition, Ms. Stark attached a copy of an E-mail (with an English language translation) sent by Mr. Lindegren on 17 August 2005 to demonstrate his refusal to sign the application. The email concerns Mr. Lindegren's desire for compensation but does not indicate that he refuses to sign the application and gives no indication that he did indeed receive a complete copy of the application papers. Thus, at this time it cannot be concluded that Mr. Lindegren refuses to sign the application.

Item (3) is not yet satisfied because a statement of the last known address of non-signing inventor has not been provided.

With regard to item (4), the declaration was executed by the available joint inventor on his behalf and on behalf of the non-signing inventor and satisfies the requirements of 37 CFR 1.47(a).

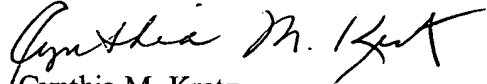
The evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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